

RULES GOVERNING WATER RIGHTS INVESTIGATIONS
[As Amended October, 1993]

TITLE VIII

TABLE OF CONTENTS

<u>SUBTITLE</u>		<u>PAGE</u>
I.	GENERAL	
	801.1 AUTHORITY.....	1
	801.2 DEFINITIONS.....	1
II.	PROCEDURE	
	802.1 APPLICATION.....	1
	802.2 REVIEW BY EXECUTIVE DIRECTOR....	1
	802.3 FINAL REPORT.....	1
III.	FEES	
	803.1 CALCULATION OF FEES.....	2
	803.2 TIME OF PAYMENT.....	2
	803.4 FEE DEPOSITED IN WATER DEVELOPMENT FUND.....	2
	803.5 FEE NOT APPLICABLE.....	2

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TITLE VIII

SUBTITLE 1. GENERAL

Section 801.1. AUTHORITY.

The Commission, as the State's chief water quantity agency, has the authority to investigate and assist in the resolution of water rights complaints that deal with flooding, surface water availability and use, and ground water availability and use.

Section 801.2. DEFINITIONS.

A. Commission: The Arkansas Soil and Water Conservation Commission as defined in Ark. Code Ann. •15-20-201, et seq.

B. Ground Water: means water beneath the surface of the ground.

C. Surface Water: means water occurring naturally on the surface of the ground in lakes, ponds or channelized streams.

SUBTITLE II. PROCEDURE

Section 802.1 APPLICATION.

Persons wishing the Commission staff to investigate water rights issues shall submit a request in writing to the Commission office.

The request must:

A. Clearly state the issue they wish investigated;

B. Identify the location of the issue on appropriate maps, if possible;

C. Identify the persons involved, including the person making the request, stating complete address(s) and telephone number(s) of each.

Section 802.2. REVIEW BY EXECUTIVE DIRECTOR.

The Executive Director shall review the request to determine if the Commission could be of assistance in resolving the issue. If he determines that the Commission cannot be of assistance, he shall notify in writing the person making the request. If he determines that the Commission can be of assistance, he shall assign the Commission staff as he determines necessary to perform the investigation.

Section 803.3. FINAL REPORT.

Upon completion of the investigation, the Commission staff shall prepare a final report of the investigation. This report shall be reviewed by the Executive Director and a copy of the report shall be provided to the person making the request for investigation.

SUBTITLE III. FEES

Section 803.1. FEES.

A. A fee for investigations of water rights shall range from \$50.00 to \$500.00.

B. The Executive Director shall establish a reasonable fee for each investigation. The fee shall be related to the cost of the Commission doing the investigation. Matters to be considered in establishing a fee shall include, but are not limited to, staff time devoted to investigation, travel expenses and any direct expense incurred as a result of the investigation.

Section 803.2. TIME OF PAYMENT.

A. If the Executive Director, after his review under Section 802.2, determines that the Commission can be of assistance, he shall establish an estimated fee for the investigation.

B. The person making the request shall be notified of the estimated fee and that this amount must be paid before an investigation can be initiated.

C. If, as the investigation proceeds, the Executive Director determines that the estimated fee is inadequate for the investigation he shall request additional payments from the person who requested the investigation. The total fee shall not exceed the maximum fee allowed under Section 803.1 A.

D. At the time of the issuance of the final report, the Executive Director shall review the cost to the Commission for the investigation and establish the total fee for this investigation. This fee shall be within the range established by Section 803.1 A.

E. If the total payments by the person requesting the investigation exceed the fee established under Section 803.2, the Commission shall refund the overpayment. If the fee exceeds total payments by the person requesting the investigation, the Executive Director shall request payment of the balance of the fee due. The Executive Director shall

not issue the final report until the fee has been paid in full.

Section 803.4. FEE DEPOSITED IN THE WATER DEVELOPMENT FUND.

A. All fees collected under this title shall be deposited into the Water Development Fund and used for the general operation of the Commission.

B. Any repayment of overpayment of fees shall come from this fund.

Section 803.5. FEE NOT APPLICABLE.

A. No fees shall be charged for routine inquiries that do not take significant Commission staff time or involve significant expenditures of Commission resources.

B. No fee shall be charged for emergency situations involving the possible loss of human life.